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12 L.A. GEM & JEWELRY DESIGN, INC.
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15 **UNITED STATES DISTRICT COURT**
16 **CENTRAL DISTRICT OF CALIFORNIA**

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18 L.A. GEM & JEWELRY DESIGN,) Case No.:
19 INC., a California Corporation,)
20 Plaintiff,) **COMPLAINT FOR:**
21 vs.)
22) **1. COPYRIGHT INFRINGEMENT;**
23 MONOGRAM HUB INC., a New York)
24 Corporation; ISAAC MATALON, an) **2. CONTRIBUTORY AND/OR**
25 individual, dba) **VICARIOUS COPYRIGHT**
26 HUNTFORJEWELS.COM;) **INFRINGEMENT**
27 MONOGRAM ONLINE, INC., a New)
28 York Corporation; DEALTOWIN,) **JURY TRIAL DEMANDED**
1 MILORD & ASSOCIATES, PC)
2 10517 West Pico Boulevard)
3 Los Angeles, CA 90064)
4 (310) 226-7878)

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Defendants.)

1 Plaintiff L.A. Gem & Jewelry Design, Inc. ("LA Gem") by and through its
 2 undersigned attorney, sues Defendants Monogram Hub Inc., Isaac Matalon dba
 3 huntforjewels.com, Monogram Online, Inc., DealtoWin, Inc., Shlomi Matalon, Jay-
 4 Aimee Designs Inc., Mitch Bookbinder, Yofi LLC dba Feshionn IOBI, Oren Monina,
 5 Staci Monina and Does 1-10 and alleges:

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7 **JURISDICTION AND VENUE**

8 1. This action arises under the laws of the United States and the Copyright Act
 9 of 1976 (17 U.S.C. § 101, *et seq.*), and as such, the Court has subject matter jurisdiction
 10 over this action pursuant to 28 U.S.C. §§ 1331 and 1338.

11 2. Venue is proper in this judicial district pursuant to 28 U.S.C. §§1391(b), (c),
 12 and 1400(a) because Defendants conduct business in this District by advertising in and
 13 shipping goods to this District, and a substantial part of the events or omissions giving
 14 rise to the claim occurred in this District.

15

16 **THE PARTIES**

17 3. Plaintiff LA Gem is a California corporation having a place of business at
 18 659 S. Broadway, Los Angeles, California 90014. LA Gem also provides services and
 19 goods under its LA Rocks service mark and trademark.

20 4. Upon information and belief, Defendant Monogram Hub Inc. ("Monogram
 21 Hub"), is a New York Corporation with its principal place of business located at 13
 22 Crampton Avenue, Great Neck, New York 11023, and Monogram Hub does business in
 23 and with the State of California and, in particular, within this District.

24 5. Upon information and belief, Defendant Isaac Matalon dba
 25 huntforjewels.com ("I. Matalon") is and at all times herein mentioned was an individual
 26 residing in the state of New York, a principal and/or owner of Monogram Hub and
 27 huntforjewels.com, and does business in and with the State of California and, in
 28 particular, within this District. Plaintiff is further informed and believes, and upon that

1 basis alleges, that I. Matalon is a principal, guiding spirit, and/or central figure in
2 Defendant Monogram Hub and has control over the day to day operations thereof, and
3 directly benefits from the tortious conduct alleged herein.

4 6. Upon information and belief, Defendant Monogram Online, Inc.
5 (“Monogram Online”), is a New York Corporation, with its principal place of business
6 located at 575 Underhill Boulevard, Suite 216, Syosset, New York 11791, and
7 Monogram Online does business in and with the State of California and, in particular,
8 within this District.

9 7. Upon information and belief, Defendant DealtoWin, Inc. (“DealtoWin”), is a
10 New York Corporation, with its principal place of business located at 99 Railroad Station
11 Plaza, Suite 210, Hicksville, New York 11801, and DealtoWin does business in and with
12 the State of California and, in particular, within this District. Plaintiff is further informed
13 and believes, and upon that basis alleges, that a relationship exists between DealtoWin
14 and Monogram Online that at the present state is unknown, and DealtoWin is a principal,
15 guiding spirit, and/or central figure in Monogram Online, has control over the day to day
16 operations thereof, and directly benefits from the tortious conduct alleged herein.

17 8. Upon information and belief, Defendant Shlomi Matalon (“S. Matalon”) is
18 and at all times herein mentioned was an individual residing in the state of New York, a
19 principal and/or owner of DealtoWin and Monogram Online, and does business in and
20 with the State of California and, in particular, within this District. Plaintiff is further
21 informed and believes, and upon that basis alleges, that S. Matalon is a principal, guiding
22 spirit, and/or central figure in DealtoWin and Monogram Online, and has control over the
23 day to day operations thereof, and directly benefits from the tortious conduct alleged
24 herein.

25 9. Upon information and belief, Defendant Jay-Aimee Designs Inc. (“Jay-
26 Aimee”), is a New York Corporation, with its principal place of business located at 99
27 Railroad Station Plaza., Suite 210, Hicksville, New York 11801, and Jay-Aimee does
28 business in and with the State of California and, in particular, within this District.

1 10. Upon information and belief, Defendant S. Matalon is a principal, owner,
 2 guiding spirit, and/or central figure in Jay-Aimee and has control over the day to day
 3 operations thereof, and directly benefits from the tortious conduct alleged herein.

4 11. Upon information and belief, Defendant I. Matalon is also a principal,
 5 owner, guiding spirit, and/or central figure in Jay-Aimee and has control over the day to
 6 day operations thereof, and directly benefits from the tortious conduct alleged herein.

7 12. Upon information and belief, Defendant Mitch Bookbinder (“Bookbinder”)
 8 is and at all times herein mentioned was an individual residing in the state of New York,
 9 a principal and/or owner of Jay-Aimee, and does business in and with the State of
 10 California and, in particular, within this District. Plaintiff is further informed and
 11 believes, and upon that basis alleges, that Bookbinder is a principal, guiding spirit, and/or
 12 central figure in Jay-Aimee and has control over the day to day operations thereof, and
 13 directly benefits from the tortious conduct alleged herein.

14 13. Upon information and belief, Defendant Yofi LLC dba Feshionn IOBI
 15 (“Feshionn”), is a Florida Limited Liability Company with its principal place of business
 16 located at 9121 Military Trail, Suite 217, Palm Beach Gardens, Florida 33410, and
 17 Feshionn does business in and with the State of California and, in particular, within this
 18 District.

19 14. Upon information and belief, Defendant Oren Monina (“O. Monina”) is and
 20 at all times herein mentioned was an individual residing in the state of Florida, a principal
 21 and/or owner of Feshionn, and does business in and with the State of California and, in
 22 particular, within this District. Plaintiff is further informed and believes, and upon that
 23 basis alleges, that O. Monina is a principal, guiding spirit, and/or central figure in
 24 Defendant Feshionn and has control over the day to day operations thereof, and directly
 25 benefits from the tortious conduct alleged herein.

26 15. Upon information and belief, Defendant Staci Monina (“S. Monina”) is and
 27 at all times herein mentioned was an individual residing in the state of Florida, a principal
 28 and/or owner of Feshionn, and does business in and with the State of California and, in

1 particular, within this District. Plaintiff is further informed and believes, and upon that
 2 basis alleges, that S. Monina is a principal, guiding spirit, and/or central figure in
 3 Feshionn and has control over the day to day operations thereof, and directly benefits
 4 from the tortious conduct alleged herein.

5 16. Defendants Does 1 through 10, inclusive, are other parties not yet identified
 6 who have infringed LA Gem's copyrights, have contributed to the infringement of LA
 7 Gem's copyrights, or have engaged in one or more of the wrongful acts alleged herein.
 8 The true names, whether corporate, individual, or otherwise of Does 1 through 10,
 9 inclusive, are presently unknown to LA Gem, and therefore, are being sued by such
 10 fictitious names, and LA Gem will seek leave to amend this Complaint to include their
 11 true names and capacities when the same have been ascertained.

12 17. LA Gem is informed and believes, and on that basis alleges, that at all times
 13 relevant to this action, each of the Defendants was the agent, affiliate, officer, director,
 14 manager, principal, alter-ego, and/or employee of the remaining Defendants and was at
 15 all times acting within the scope of such agency, affiliation, alter-ego relationship and/or
 16 employment, and actively participated in or subsequently ratified and adopted, or both,
 17 each and all of the acts or conduct alleged herein with full knowledge of each and every
 18 violation of LA Gem's rights and the damages to LA Gem proximately caused thereby.

19

20 **FACTS COMMON TO ALL COUNTS**

21 18. LA Gem is a designer and creator of jewelry whose jewelry pieces are sold
 22 by numerous national retailers.

23 19. LA Gem is the designer and creator of the original artwork (as hereinafter
 24 described), all prior to Defendants' conduct complained of herein.

25 20. Upon information and belief, Defendants Monogram Hub, I. Matalon,
 26 Monogram Online, DealtoWin, S. Matalon, Jay-Aimee, Bookbinder, Feshionn, O.
 27 Monina and S. Monina, are retailers, manufacturers, and/or distributors of jewelry to the
 28 jewelry industry, and are in the business of manufacturing, marketing, and selling jewelry

1 products that are available for purchase and use across the United States, including in this
 2 District.

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4 **COMMON ALLEGATIONS RELATED TO**
 5 **MOON PENDANT**

6 21. In 2011, LA Gem created its original design entitled LA Rocks I Love You
 7 to the Moon and Back: 440811 (“Moon Pendant”), as pictured below:



12 22. Thereafter, LA Gem sought to register the copyright in the Moon Pendant
 13 with the United States Copyright Office, and was granted such registration on November
 14 21, 2013, under Registration No. VA 1-912-320.

15 23. At all relevant times, LA Gem complied in all respects with the Copyright
 16 Act, 17 U.S.C. § 101, *et seq.*, and secured the exclusive rights and privileges in and to the
 17 Moon Pendant. The Moon Pendant is an original work copyrightable under the
 18 Copyright Act, and has been registered in full compliance with the Copyright Act.

19 24. Since the creation of the Moon Pendant, LA Gem has been and still is the
 20 sole proprietor of all rights, title, and interest in and to the copyright therein and
 21 Certificates of Registration corresponding therewith.

22 25. Since its creation, the Moon Pendant has been manufactured and/or
 23 distributed by LA Gem or under its authority.

24 26. LA Gem has not authorized Defendants to copy, reproduce, manufacture,
 25 duplicate, disseminate, or distribute the Moon Pendant or any jewelry products
 26 substantially similar thereto.

27 27. Upon information and belief, Defendants have engaged in the marketing,
 28 manufacture, distribution, duplication, and/or sale of infringing copies of the Moon

Pendant.

28. Upon information and belief, Defendants Monogram Hub, I. Matalon, Monogram Online, DealtoWin, S. Matalon, Jay-Aimee, Bookbinder, Feshionn, O. Monina and S. Monina have sold unauthorized and infringing copies of at least the Moon Pendant, which bear a design that is substantially similar – if not strikingly similar – to the authentic Moon Pendant at retail, at wholesale, and through retailers, including monogramhub.com, huntforjewels.com, monogramonline.com, opensky.com, livingsocial.com, groupon.com, and feshionnIOBI.com. The infringement is so brazen that it copies LA Gem’s Designer’s cursive handwriting. All of the foregoing acts occurred without LA Gem’s consent.

29. Upon information and belief, Defendants Monogram Hub, I. Matalon, Monogram Online, DealtoWin, S. Matalon, Jay-Aimee, Bookbinder, Feshionn, O. Monina and S. Monina have sold the unauthorized infringing copies of the Moon Pendant to the public, including customers in this district, at retail, at wholesale, and through retailers, including monogramhub.com, huntforjewels.com, monogramonline.com, opensky.com, livingsocial.com, groupon.com, and feshionnIOBI.com.

COMMON ALLEGATIONS RELATED TO
MOM PENDANT NOS. 1 AND 2

30. In 2013, LA Gem created its original design entitled LA Rocks I Love You to the Moon and Back: 451711CL, et al., including its Design No. 451713 (“Mom Pendant No. 1”), as pictured below:



31. Thereafter, LA Gem sought to register the copyright in Mom Pendant No. 1 with the United States Copyright Office, and was granted such registration on November 25, 2013, under Registration No. VA 1-889-369.

1 32. At all relevant times, LA Gem complied in all respects with the Copyright
 2 Act, 17 U.S.C. § 101, *et seq.*, and secured the exclusive rights and privileges in and to
 3 Mom Pendant No. 1. Mom Pendant No. 1 is an original work copyrightable under the
 4 Copyright Act, and has been registered in full compliance with the Copyright Act.

5 33. In 2014, LA Gem created its original design entitled LA Rocks I Love You
 6 to the Moon and Back Collection: 453547 (“Mom Pendant No. 2”), which is a derivative
 7 work of Mom Pendant No. 1, as pictured below:



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 13 34. Since the creation of Mom Pendant Nos. 1 and 2 (collectively, “Mom
 14 Pendants”), LA Gem has been and still is the sole proprietor of all rights, title and interest
 15 in and to the copyrights therein.

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 17 35. Since their creation, the Mom Pendants have been manufactured and/or
 18 distributed by LA Gem or under its authority.

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 20 36. LA Gem has not authorized Defendants to copy, reproduce, manufacture,
 21 duplicate, disseminate, or distribute the Mom Pendants or any jewelry products
 22 substantially similar thereto.

23
 24 37. Upon information and belief, Defendants have engaged in the marketing,
 25 manufacture, distribution, duplication, and/or sale of infringing copies of the Mom
 26 Pendants.

27
 28 38. Upon information and belief, Defendants Monogram Online, DealtoWin,
 29 and S. Matalon have sold unauthorized and infringing copies of at least the Mom
 30 Pendants, which bear a design that is substantially similar – if not strikingly similar – to
 31 the authentic Mom Pendants at retail, at wholesale, and through retailers, including

1 monogramonline.com. The infringement is so brazen that it copies LA Gem's Designer's
 2 cursive handwriting. All of the foregoing acts occurred without LA Gem's consent.

3 39. Upon information and belief, Defendants Monogram Online, DealtoWin,
 4 and S. Matalon have sold the unauthorized infringing copies of the Mom Pendants to the
 5 public, including customers in this district, at retail, at wholesale, and through retailers,
 6 including monogramonline.com.

7 40. For the Court's convenience, the following table sets forth Plaintiff's designs
 8 at issue (collectively "Subject Designs") and the currently known infringers' identities
 9 and infringing products:

L.A. Gem Copyrighted Design	Infringing Defendants' Products
<u>Moon Pendant</u> Registration No.: VA 1-912-320 	<ul style="list-style-type: none"> • Monogram Hub • I. Matalon 
	<ul style="list-style-type: none"> • Monogram Online • DealtoWin • S. Matalon 

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1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28	<ul style="list-style-type: none">• Jay-Aimee• S. Matalon• I. Matalon• Bookbinder 
	<ul style="list-style-type: none">• Feshionn• O. Monina• S. Monina 
<p><u>Mom No. 1</u> Registration No.: VA 1-889-369</p>  <p><u>Mom No. 2</u></p> 	<ul style="list-style-type: none">• Monogram Online• DealtoWin• S. Matalon 

First Cause Of Action

(Copyright Infringement)

41. LA Gem hereby realleges and incorporates the allegations in paragraphs 1 through 40 of this Complaint as if fully set forth herein.

42. Defendants' acts constitute infringement of LA Gem's copyright in the Moon Pendant and Mom Pendants (collectively, "LA Gem's Pendants") in violation of the Copyright Act, 17 U.S.C. § 101, *et seq.*

43. LA Gem is informed and believes that Defendants' manufacture, distribution, duplication and/or sale of infringing copies of LA Gem's Pendants was deliberate, willful, malicious, oppressive, and without regard to LA Gem's proprietary rights.

44. Defendants' copyright infringement has caused, and will continue to cause LA Gem to suffer substantial injuries, loss, and damage to its proprietary and exclusive rights to the copyright in LA Gem's Pendants and further, has damaged LA Gem's business reputation and goodwill, diverted its trade, and caused loss of profits, all in an amount not yet determined. In addition, LA Gem is entitled to receive the profits made by Defendants from their wrongful acts pursuant to 17 U.S.C. § 504. Alternatively, LA Gem is entitled to recover statutory damages, on election by LA Gem in an amount of up to \$150,000 per copyright registration.

45. Defendants' copyright infringement and the threat of continuing infringement has caused, and will continue to cause, LA Gem repeated and irreparable injury. It would be difficult to ascertain the amount of money damages that would afford LA Gem adequate relief at law for Defendants' acts and continuing acts. LA Gem's remedy at law is not adequate to compensate it for the injuries already inflicted and further threatened by Defendants. Therefore, LA Gem is entitled to preliminary and permanent injunctive relief pursuant to 17 U.S.C. § 502, and to an order under 17 U.S.C. § 503 and 28 U.S.C. § 1651(a) that the infringing copies of LA Gem's Pendants, and all molds by which such infringing copies were produced, be seized, impounded, and

destroyed.

46. LA Gem is also entitled to recover its attorneys' fees and cost of suit pursuant to 17 U.S.C. § 505.

Second Cause of Action

(Contributory and/or Vicarious Copyright Infringement)

47. LA Gem hereby realleges and incorporates the allegations in paragraphs 1 through 46 of this Complaint as if fully set forth herein.

48. LA Gem is informed and believes, and thereon alleges, that Defendants, and each of them, knowingly induced, participated in, aided and abetted, and resultantly profited from the illegal reproduction, importation, purchase, distribution, and/or sale of products bearing LA Gem's Pendants as alleged in this Complaint.

49. LA Gem is informed and believes, and thereon alleges, that Defendants, and each of them, are vicariously liable for the copyright infringement alleged in this Complaint because they had the right and the ability to supervise such infringement and because they had a direct financial interest in the infringing conduct.

50. By virtue of Defendants' contributory and/or vicarious copyright infringement, LA Gem has suffered substantial damages to its business in an amount to be established at trial.

51. By virtue of Defendants' contributory and/or vicarious copyright infringement, LA Gem has suffered general and special damages in an amount to be established at trial.

52. By virtue of Defendants' contributory and/or vicarious copyright infringement, Defendants, and each of them, have obtained direct and indirect profits that they would not have realized but for their infringement of LA Gem's Pendants. As such, LA Gem is entitled to disgorgement of Defendants' profits that are directly and indirectly attributable to their acts of infringement in an amount to be established at trial.

53. LA Gem is informed and believes, and thereon alleges, that Defendants, and

1 each of them, have continued to import, manufacture, cause to be manufactured, and/or
2 sell the infringing product with knowledge that such acts violated LA Gem's intellectual
3 property rights. Therefore, Defendants' acts of copyright infringement as alleged above,
4 were and continue to be, willful, intentional, and malicious, subjecting Defendants, and
5 each of them, to liability for statutory damages under 17 U.S.C. § 504(c)(2) in the sum of
6 up to one hundred fifty thousand dollars (\$150,000) per each act of infringement.

7 Further, Defendants, and each of them, willfully and intentionally misappropriated,
8 palmed-off, and/or infringed LA Gem's Pendants, which renders Defendants, and each of
9 them, liable for statutory damages as described above. Within the time permitted by law,
10 LA Gem will elect between actual or statutory damages.

11

12 **PRAYER FOR RELIEF**

13 WHEREFORE, Plaintiff LA Gem prays for judgment against Defendants as
14 follows:

15 A. That the Court enter a judgment against Defendants that Defendants have
16 infringed the rights of LA Gem in LA Gem's federally registered copyrights under 17
17 U.S.C. § 501.

18 B. That the Court issue a Preliminary Injunction enjoining and restraining
19 Defendants and their respective agents, servants, employees, successors and assigns, and
20 all other persons acting in concert with or in conspiracy with or affiliated with
21 Defendants, from:

22 i. manufacturing, producing, selling, distributing, destroying, altering, or
23 otherwise disposing of any jewelry that is in the possession of
24 Defendants that is substantially similar to LA Gem's Pendants;
25 ii. destroying any documents, electronic files, wax models, molds, business
26 records, or any other tangible object pertaining to the copying,
27 reproduction, manufacture, duplication, distribution, or advertisement of
28 any such jewelry; and,

- iii. engaging in any other activity constituting an infringement of LA Gem's copyrights of LA Gem's Pendants.

C. That LA Gem be awarded damages for Defendants' copyright infringement either: (i) actual damages in an amount to be determined at trial, together with Defendants' profits derived from its unlawful infringement of LA Gem's copyrights; or (ii) statutory damages in an amount provided by law, as set forth in 17 U.S.C. § 504, at LA Gem's election before the entry of final judgment, together with prejudgment and post-judgment interest.

D. That the Court issue a Permanent Injunction enjoining and restraining Defendants and their respective agents, servants, employees, successors and assigns, and all other persons acting in concert with or in conspiracy with or affiliated with Defendants, from copying, reproducing, manufacturing, duplicating, disseminating, distributing, or using LA Gem's Pendants or any other jewelry that infringes LA Gem's copyrights.

E. That the Court award LA Gem its reasonable attorneys' fees pursuant to 17 U.S.C. § 505.

F. That the Court award LA Gem its costs of suit incurred herein.

G. That LA Gem be awarded such other relief as may be appropriate.

Dated: April 8, 2016

Respectfully submitted,

MILORD & ASSOCIATES, P.C.

/s/ Milord A. Keshishian

Milord A. Keshishian

Attorneys for Plaintiff

L.A. GEM & JEWELRY DESIGN, INC.

DEMAND FOR JURY TRIAL

Plaintiff, through its attorneys of record, hereby demands trial by Jury.

Dated: April 8, 2016

MILORD & ASSOCIATES, P.C.

/s/ Milord A. Keshishian

Milord A. Keshishian

Attorneys for Plaintiff

L.A. GEM & JEWELRY DESIGN, INC.

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